

Exhibit 17

1780.

The fourth Year
of the Common-
wealth.



L A W S

Enacted in the second sitting of the fourth general assembly of the commonwealth of *Pennsylvania*, which commenced at *Philadelphia*, on *Wednesday*, the nineteenth day of *January*, in the year of our Lord 1780.

CHAPTER CXLI.

An ACT for laying an embargo on the exportation of provisions from this state, by sea, for a limited time.

Passed February 28th, 1780. Recorded in Law Book Vol. I. Page 328, &c.
Expired.

CHAPTER CXLII.

An ACT for the preservation of buildings erected upon the lands of divers inhabitants of this commonwealth, for the use of the united states, and vesting such land with the buildings, in the united states, during the present war, and to punish persons for waste or trespasses made or committed thereon, and for other purposes therein mentioned.

Preamble. SECTION I. **W**HEREAS in the unsettled state of public affairs, during the war with Great Britain, the necessities of the united colonies or states induced their officers to take possession of the lands of divers persons, inhabitants of this commonwealth, for public use, and have, at the public expence, erected thereon barracks, hospitals, stables, store houses and other buildings.

SECT. 2. *And whereas* the honourable the congress of the united states of America, by their resolve dated the twenty third of July last, have recommended that suitable provision be made by a law for preserving the same buildings,

JOSEPH REED, Esq. President.

347

be lawful for the commissioners and assessors of said county, or a majority of them, to assess and levy so much money as the said trustees or any four of them shall judge necessary, for paying the remainder aforesaid, of purchasing the land, and finishing the said court house and prison, and they are hereby required so to do.

1780.

The fourth Year
of the Common-
wealth.

JOHN BAYARD, SPEAKER.

*Enacted into a law at Philadelphia, on Monday, the
20th day of March, A. D. 1780.*

THOMAS PAINE, clerk of the general assembly.

CHAPTER CLXVII.

An ACT for the regulation of the militia of the commonwealth of Pennsylvania.

SECTION 1. **W**HEREAS a militia law, founded upon just and equitable principles, hath been ever regarded as the best security of liberty, and the most effectual means of drawing forth and exerting the natural strength of a state. Preamble.

SECT. 2. *And whereas* a well regulated militia is the only safe and constitutional method of defending a free state, as the necessity of keeping up a standing army, especially in times of peace, is thereby superseded.

SECT. 3. *And whereas* the militia law of this commonwealth, enacted by the general assembly the seventeenth day of March, one thousand seven hundred and seventy seven, from a change of circumstances and other causes, hath become insufficient to answer the purposes aforesaid, which renders it highly necessary that a new law should be enacted. Therefore,

SECT. 4. *Be it enacted, and it is hereby enacted by the representatives of the freemen of the commonwealth of Pennsylvania, in general assembly met, and by the authority of the same,* That the president in council, or, in his absence, the vice president in council, of this commonwealth, shall appoint and commissionate one reputable freeholder in the city of Philadelphia, and one in each county within this state, to serve as lieutenants of the militia for the said city and counties respectively; and also any number of persons not exceeding two for the said city; and in the several counties any number not exceeding the

President in
council to
appoint a
lieutenant
in each
county.

1780.
*The fourth Year
 of the Common-
 wealth.*

Lieute-
 nants to
 find secu-
 rity.

the number of battalions now or to be hereafter formed, to serve as sub lieutenants in the said city and counties respectively; who, besides the powers which are given him and them by this act, shall have the title and rank which the president in council, or, in his absence the vice president in council, shall confer; which said lieutenant, or in his absence or incapacity two or more sub lieutenants, shall have full power and authority to do and perform all and singular the duties required of the said lieutenants by this act.

SECT. 5. *And be it enacted by the authority aforesaid,* That the lieutenants and sub lieutenants, before they enter upon the execution of their offices respectively, shall give bond to the treasurer of the county in which they severally reside, in the name of the president or commander in chief of the state, with one sufficient surety, in the sum of twenty thousand pounds, conditioned for the faithful accounting for and paying of all the monies which shall come to their hands by virtue of this act, when thereunto lawfully required. And that the public bonds given or to be given by the treasurer of the state or county treasurers, for the due discharge of their respective offices, shall be deemed to extend to the faithful performance of the trust hereby committed to them respectively.

Lieute-
 nants to
 procure a
 list of all
 male white
 inhabitants
 between
 18 and 53
 years of age
 yearly.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said lieutenant or sub lieutenants (one in every year) shall issue his or their warrants to the captain or commanding officer for the time being of each company of the several battalions in the said city and counties respectively, or to some other suitable person, commanding him, in the name of the commonwealth, to deliver to him or them, the said lieutenant or sub lieutenants, within ten days from and after the date of the said warrants, (unless the lieutenant or sub lieutenants shall judge a longer time to be necessary, which he or they are hereby empowered to grant) on oath or affirmation which any of them is hereby empowered to administer, a true and exact list of the names and surnames of each and every male white person inhabiting or residing within his township, borough, ward or district, between the ages of eighteen and fifty three; (delegates in congress, members of the supreme executive council, members of the general assembly, judges of the supreme court, attorney general for the state, the judge of the admiralty, treasurer of the state, sheriffs, goalers and keepers of work-houses, ministers of the gospel of every denomination, professors and teachers in the university, post-masters, and post-riders belonging to the general post-office, menial servants

of

JOSEPH REED, Esq. President.

349

of ambassadors or ministers and consuls from foreign courts, and of delegates in congress from other states, registered with the secretary of the supreme executive council of this state, and servants purchased *bona fide* and for a valuable consideration, only excepted.)

1780.

The fourth Year
of the Common-
wealth.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the lieutenant and sub lieutenants aforesaid, shall, within five days after they shall receive the lists aforesaid, if they see cause, alter the present divisions of the city and counties respectively, and divide them into new districts, each district to contain not less than four hundred and forty nor more than one thousand, officers and privates included, at the discretion of the said lieutenants and sub lieutenants; and then sub divide the said districts into eight parts, as nearly equal as may be, paying due regard in each division to the convenience of the inhabitants: Provided always, that two thirds of the lieutenants met for the above purpose agree to such division, and that each person be annexed to the numerical class to which he formerly belonged.

Lieutenants to divide and class the militia.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the militia of the northern liberties of the city of Philadelphia, the district of Southwark, and the townships of Moyamensing and Passyunk, be and they are hereby united to the city of Philadelphia, to act in conjunction with the militia of the said city, and distinct from the rest of the county of Philadelphia; that they draw lots for rank in battalion, and be joined in brigade and act in every other matter that respects the militia law, as if they were inhabitants of said city, and to be under the direction of the lieutenant and sub lieutenants of the city.

Northern Liberties, &c. to join the city.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the lieutenant and sub lieutenants of the city of Philadelphia and districts annexed shall, out of the several battalions of the said city and districts annexed, take such a number as will compose eight companies, to form one battalion of artillery, to be officered and arrayed as follows, that is to say, one lieutenant colonel, one major, eight captains, eight captain lieutenants, eight first lieutenants, sixteen second lieutenants; the senior to bear the standard, and the junior to do the duty of conductor; paymaster, adjutant, and quarter master to be taken from the line; one surgeon, one serjeant major, five major, drum major, eight clerks, thirty two serjeants, forty eight bombadiers, forty gunners, eight drummers, eight fifiers, and four hundred matrosses; and both the officers and privates of the said battalion, shall be sub-

Artillery of the city.

350

HIS EXCELLENCY

1780.

The fourth Year
of the Common-
wealth.

ject to the same fines and penalties for any omission of duty as the infantry: Provided nevertheless, that the persons composing the artillery heretofore formed may be permitted to continue as a part of the said battalion of artillery; and the officers shall be elected in the same manner as is directed by this act for the election of officers of the infantry.

Companies
of artillery
how to
rank.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the several captains of the artillery battalion shall determine their rank by lot, and be numbered from one to eight in numerical order, and be subject to be drawn forth into actual service in rotation by companies, according to their number in rank, number one in rank with the first class of the militia, and so on, until all shall take their tour, or otherwise as the commander in chief of the militia shall direct.

Preamble
concerning
light horse.

SECT. 11. *And whereas* it is expedient to embody such a number of light horse as will be useful when the militia is called into actual service. Therefore,

Lieute-
nants of
each county
to form a
troop or
corps.

SECT. 12. *Be it further enacted by the authority aforesaid,* That each of the lieutenants of the several counties of this state may form a corps of light horse, not to exceed six privates for each battalion of infantry in each county; to be taken distributively out of each, in case volunteers offer; otherwise at large throughout the county; and the light horse shall be officered as light horse usually are, and shall be subject to appear upon muster days, and shall turn out in classes as other militia; and in case any person, who shall be admitted into the said light horse, shall fail of providing himself with a suitable horse, weapons and furniture, such person shall be liable to be called out, and serve in the foot militia.

Light horse
of the city
limited to
fifty pri-
vates.

SECT. 13. *And be it further enacted by the authority aforesaid,* That the troop of light horse in the city of Philadelphia shall be limited to the number of fifty, exclusive of officers; the vacancies thereof to be filled in the manner heretofore practised; and the said troop shall be liable to appear on muster days, and to be called out into service as other militia; and the light horse of this state when in actual service shall be subject to the same rules and regulations as the foot militia, and to like fines and penalties for neglect of meeting on muster days or turning out on their tour when thereunto called; such fines and penalties, to be appropriated as the fines and penalties for like offences in other cases.

Light horse
if chosen an
officer, to

SECT. 14. *And be it further enacted by the authority aforesaid,* That if any light horseman shall be elected or appointed

appointed a commissioned officer in any battalion of infantry of his proper city or county, and on notice given him in writing by the lieutenant, shall accept thereof, his place in the said light horse shall be vacated; and any light horseman who shall be absent more than four months from his city or county shall vacate his place in the troop to which he belonged.

1780.

The fourth Year
of the Common-
wealth.

vacate his
place in the
horse.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the lieutenant or sub lieutenant shall appraise the horse of each person serving as a light horseman immediately before every time of going into actual service, and enter the same in a book; and in case such horse shall be killed or die in actual service or be taken by the enemy, otherwise than by neglect, he shall be paid the value of such appraisement by an order to be drawn by the lieutenant or any two sub lieutenants on the militia fund in the hands of the treasurer for that purpose.

Horses to
be apprais-
ed before
going upon
actual ser-
vice.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said lieutenants shall give public notice, by advertisements at ten or more of the most public places in the said districts respectively, of the said divisions being made, and appointing a certain day for each district, not less than ten days after the said notice, and requiring the male white inhabitants between the ages aforesaid, residing in the said divisions respectively, to meet at a certain place as near the centre of the said division as may be, and then and there, between the hours of ten in the morning and six in the afternoon of the said day, to elect by ballot two field officers, that is to say, one lieutenant colonel and one major. And the inhabitants of the said subdivisions respectively shall elect by ballot as aforesaid, on the same or some other day, as soon as convenient, one captain, one lieutenant and one ensign; previous to which said election, the said inhabitants shall elect two freeholders to preside as judges thereof; and all and each of these officers respectively shall be such persons as have taken the oath of allegiance and abjuration agreeable to the laws of this state; and each captain shall appoint a suitable person for a clerk in his company; and the said lieutenant or sub lieutenant shall attend and superintend each and every of the said battalion elections, and shall cause the lieutenant colonels so elected in the city and counties respectively to meet together as soon as may be, and cast lots for rank of the battalions; and the rank of the officers in each battalion shall be determined by the lot drawn by their respective lieutenant colonels; and the captains so elected in the subdivisions

How com-
manding of-
ficers are to
be elected;

how quali-
fied.

shall

1780.

*The fourth Year
of the Common-
wealth.*

Names of
the persons
chosen to
be sent to
the presi-
dent and
council.

shall meet and cast lots for their rank in the battalion to which they belong; and the rank of the subaltern officers in each company shall be determined by the lot drawn by their respective captains: And the said lieutenants shall, within ten days, or as soon as may be, having regard to their local situation, transmit proper certificates to the president of the supreme executive council of the names of the persons so as aforesaid elected and their rank, both of battalions and companies in the several battalions, in order that commissions may be forthwith granted to them, agreeable to the said certificates; and elections for officers in the light horse shall be made in like manner as elections for officers in the infantry.

Battalion,
&c. refusing
to choose
command-
ing officers,
the lieute-
nant to ap-
point.

SECT. 17. *And be it further enacted by the authority aforesaid,* That if any battalion, troop or company, shall neglect or refuse to elect their officers as aforesaid, then and in such case, it shall and may be lawful for the lieutenant, with the advice and consent of two or more of the sub lieutenants of the city of Philadelphia and of such county where such neglect or refusal shall be, to nominate one reputable person to the supreme executive council, in the room of each officer so neglected to be chosen; and the said council approving thereof shall commission the said person which shall be as effectual, to all intents and purposes, as if the said officers had been elected as before directed; and the said lieutenant shall, as soon as may be, acquaint the parties so neglecting or refusing with the appointments so as aforesaid made. And the said several and respective officers elected or appointed as aforesaid shall serve respectively as officers of the militia for the space of three years; at the end of which time the lieutenant of the city and counties respectively, in the manner herein before directed, shall cause a new election to be held in the said city and counties respectively; but nothing herein contained shall be construed to render any of the former officers incapable of being re-elected.

How serje-
ants, &c. to
be appoint-
ed.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the commissioned officers of each company shall appoint three serjeants, three corporals, one drummer and fifer for their respective companies; and all persons who have heretofore been officers in the militia under the late law, if not re-elected, shall deliver up their arms, accoutrements, drums, fifes and colours, if paid for by the public, to the lieutenant or sub lieutenant of the city or county aforesaid. And the lieutenant of the city of Philadelphia, and the lieutenants of the counties respectively, are hereby authorised to purchase such drums,

JOSEPH REED, Esq. President.

353

drums, fifes and colours, as may be afterwards wanted to supply the companies in the city and counties respectively.

SECT. 19. *And be it further enacted by the authority aforesaid,* That the field officers of each battalion in this state, shall constitute and appoint in their respective battalions, one chaplain, one quarter master, one surgeon, one adjutant, one quarter master serjeant, one serjeant major, one drum and fife major; and the lieutenants and sub lieutenants of the city and counties respectively shall, at their discretion, furnish and procure proper carriages for the battalions or drafts of the militia, when it shall be necessary,

SECT. 20. *And be it further enacted by the authority aforesaid,* That the lieutenant or sub lieutenants of the city and counties respectively, shall pay such wages as shall be necessary to one adjutant, one quarter master serjeant and one drummer and fifer, for every day that the service may require them, out of the monies arising from fines, on the said adjutants, quarter master serjeant, drummer and fifer producing a certificate of the service so performed, from the commanding officer of the said battalion or company,

SECT. 21. *And whereas* the sums allowed by the late militia law for a drummer and fifer have been insufficient, and many officers have been obliged to pay considerably more.

SECT. 22. *Be it therefore enacted by the authority aforesaid,* That the lieutenants shall and hereby are required to pay unto such captains or commanding officers of companies such reasonable sums as they have expended for drummers and fifers, on their producing an account of such costs, properly certified.

SECT. 23. *And be it further enacted by the authority aforesaid,* That the commissioned officers of each company of militia shall nominate and appoint one discreet person, who shall be called the almoner, residing in the district or sub division out of which their company is formed, provided such almoner is above the age of fifty three years, to take proper care of the families of such poor militia men, within their respective districts as are in actual service in their own turn, and to grant them such support as their necessities may require; provided such support do not exceed half the price of daily labour, as the same shall be ascertained as herein after is directed; and the said officers of the company, or any two of them, shall make out a certificate of their nomination and appointment, directed to the

1780.

The fourth Year
of the Common-
wealth.

Chaplain,
quarter
master, sur-
geon, adju-
tant, &c.

Adjutant,
drum and
fife to be
paid.

Preamble
concerning
former
drums and
fifes.

Captains,
&c. reim-
bursed.

Almoner to
provide for
the families
of the poor.

1780.

*The fourth Year
of the Common-
wealth.*

lieutenant of the city or lieutenant or sub lieutenants of the county to which the company belongeth; which certificate shall enable the said almoner thereby appointed, to draw from time to time on the said lieutenant or sub lieutenant, for such sum or sums of money as shall be necessary for the purpose aforesaid; and he shall render an account of the monies by him drawn to the said lieutenants.

Lieutenants and sub lieutenants to render accounts, on pain of, &c.

SECT. 24. *And be it further enacted by the authority aforesaid,* That every sub lieutenant of the said city and several counties shall, once in every three months, render an account to his proper lieutenant of all monies received by him, and of his expenditures by virtue of this act, and settle and pay to him the balance of the same; and the lieutenant of the said city and each county respectively, shall make out compleat accounts of all the monies received by him and of his expenditures, and return the same to the supreme executive council, once in every six months; and each lieutenant and sub lieutenant is hereby impowered to employ one clerk, the better to compleat the same, and on failure of accounting as aforesaid, each lieutenant and sub lieutenant shall forfeit and pay for every such neglect, the sum of ten thousand pounds, to be applied as other fines are directed to be applied by this act.

Rank and precedence of the city and counties.

SECT. 25. *And be it further enacted by the authority aforesaid,* That the precedence of the officers of the city of Philadelphia, and of the several counties in this commonwealth, shall be determined as follows; that is to say, when the commissions are of equal rank and date, the officers of the city of Philadelphia and districts annexed shall take rank or precedence of all other officers of equal rank in this state; and next to them the officers of the county of Philadelphia, and so on, according to the seniority of the counties respectively.

Days of exercise.

SECT. 26. *And be it further enacted by the authority aforesaid,* That the whole of the militia so enrolled as aforesaid, shall be subject to be exercised in companies under their respective officers as followeth; that is to say, in the city of Philadelphia and districts annexed, in companies, on the two last Mondays in the month of April, and in battalion, on the two first Mondays in the month of May; and the first battalion shall muster in battalion, on the third Monday in May; the second battalion on the Tuesday following; the third battalion on the Wednesday, and so on, till the whole number of battalions shall have mustered, according to their numerical rank, on any or every day of the week, (Saturday and Sunday excepted) until the whole number of battalions

JOSEPH REED, Esq. President.

355

battalions shall have mustered in the aforesaid manner, and on the day following, should it not happen to be Saturday or Sunday, the whole number of battalions belonging to the city of Philadelphia and districts annexed, shall meet in brigade, and the militia of the city of Philadelphia and districts annexed shall meet to exercise in companies the two last Mondays in the month of August, and in battalion, on the two first Mondays in the month of September; and the first battalion, on the second Monday in the month of October, the second battalion on the Tuesday following, and the third battalion on the Wednesday; and so on until the whole number of battalions, according to their rank, have mustered, except as before excepted. And then on the day following (with the foregoing exceptions,) the whole battalions shall meet in brigade. And in each and every county in the following manner, that is to say, in companies the two last Mondays in the month of April, and the two first Mondays in the month of May; and shall begin their mustering in battalion in the following manner, to wit, the first battalion shall meet in battalion on the third Monday of the said month, the second battalion on the Tuesday following, the third battalion on the Wednesday, and so on, according to the rank of battalions in the aforesaid manner, mustering each day in the week (Saturday and Sunday excepted) until the whole number of battalions belonging to each county shall have mustered in this manner; and in companies the two first Mondays in the month of October, and the two first Mondays in the month of November; and the first battalion in battalion on the third Monday in the month of November, the second battalion on the Tuesday following, the third battalion on the Wednesday, and in this manner until the whole number of battalions belonging to each county, according to their ranks severally, shall have mustered on any day it may happen (except on a Saturday or Sunday as before excepted). And on each of the said days every militia man so enrolled shall duly attend with his arms and accoutrements in good order; and a serjeant or the clerk of each company shall at the end of one hour after the time appointed for the meeting of the company or battalion, call over the muster roll of the company, noting those who are absent; and on that day shall make return in writing to the captain or commanding officer then present of such absentees; and all persons so absent at the time of calling over the roll, or who shall depart from the parade before duly discharged, shall be liable to the fines hereafter mentioned.

1780.

*The fourth Year
of the Common-
wealth.*

*Absentees
to be noted
and fined.*

SECT.

1780.

*The fourth Year
of the Common-
wealth.*

Fine for ab-
sence on
days of ex-
ercise.

Fines to be
levied by
warrant of
lieutenant,
and kept as
a fund.

SECT. 27. *And be it further enacted by the authority aforesaid,* That if any commissioned officer shall neglect or refuse to attend on any of the days appointed for exercise in companies as aforesaid, (unless prevented by sickness or some other unavoidable accident) such commissioned officer shall forfeit and pay the price of three days labour; and any non commissioned officer or private, and all enrolled persons, so refusing or neglecting (except as before excepted) shall forfeit and pay the price of one and a half day's labour; and on a brigade or battalion day a field officer shall forfeit and pay the price of six days labour, and a commissioned officer under that rank the price of four days labour, and a non commissioned officer or private, and all enrolled persons refusing to meet and exercise, the price of two days labour, (excepting as before excepted) the said prices to be ascertained as hereafter directed: The names and surnames of all which persons, so incurring the said fines and penalties, (except such as may have paid the same into the hands of the captain or commanding officer of the company,) shall be duly returned by the captain or commanding officer of each company, under his hand, together with such fine as he has received, to the lieutenant colonels or commanding officers of the battalions respectively on each field day; which said lieutenant colonel or commanding officer of the battalion shall, on receipt of such fines and returns, forthwith transmit the same to the lieutenant or one of the sub lieutenants of the county; and also a duplicate thereof to the treasurer of the county; and the said lieutenant or sub lieutenant shall, immediately after the said returns are respectively made to him, cause the same to be recovered by issuing his warrant to the sheriff, constable or other fit person that he can procure, to levy the aforesaid fines by distress and sale of the offender's goods and chattels, together with five per cent. for collecting where no distress is necessary to be made, and seven and a half per cent. in case of distress and sale, in full for his trouble for levying, selling and collecting (unless the offender shew cause of absence by sickness or otherwise, and can produce a certificate from the captain or commanding officer of the company, who may give such certificate, if he verily believes the offender ought to be excused from paying the said fines;) but if no such goods and chattels can be found, then to seize and take the body of such offender, and commit him to the common jail or some other place of close confinement, for the space of ten days for each fine, unless he sooner

J O S E P H R E E D, Esq. President.

357

sooner pay the same. And the lieutenant shall, twice in every year, transmit the said fines, when collected, into the hands of the county treasurer, who shall pay the same into the hands of the state treasurer, to be kept as a fund, subject to such draughts as may be made upon him from time to time by the lieutenant or at least two sub lieutenants for the use of the militia of that county. But if the funds of any county, by the generality of their turning out should be insufficient to answer the draughts for the support of persons serving or suffering in the militia, in that case the executive council shall be empowered to draw on the funds of such other counties whose surplus may be most enabled to bear it.

1780.

*The fourth Year
of the Common-
wealth.*

Counties
where fines
are few, to
be relieved.

SECT. 28. *And be it further enacted by the authority aforesaid,* That the treasurer of each county, and the state treasurer, shall keep all the monies arising from fines by the militia law, separate from all other monies, and keep separate books to enter the same, for the purposes herein after mentioned.

Fines to be
kept sepa-
rate.

SECT. 29. *And be it further enacted by the authority aforesaid,* That whenever it may be necessary to call into actual service any part of the militia, in case of a rebellion or invasion of this or any of the adjoining states. then it shall and may be lawful for the president or vice president in council to order into actual service such part of the militia, by classes, of the city of Philadelphia, or of any county or counties, as the exigency may require. Provided, that the part so called doth not exceed four classes of the militia of the county or counties so called out : *And provided also,* That such counties shall not be again called upon to furnish any more militia until an equal number of classes of the militia of the other counties respectively be first called; unless the danger of an invasion from Indians or others should make it necessary to keep in reserve the militia of such county or counties for their own immediate defence.

President,
&c. may
call out mi-
litia.

Provide.

SECT. 30. And to the end that the militia when called by classes shall be properly officered, the following order is hereby directed and enjoined; that is to say,

The order
in which
they are to
turn out.

For the first draft. The captain of the first company, the lieutenant of the second, and the ensign of the fourth.

Second draft. The captain of the second company, the lieutenant of the first, and the ensign of the third.

Third draft. The captain of the third company, the lieutenant of the fourth, and the ensign of the second.

Fourth draft. The fourth captain, the lieutenant of third company, and the ensign of the first.

4 X

Fifth

1780.
 {
The fourth Year
of the Common-
wealth.
 }

Fifth draft. The fifth captain, the lieutenant of the sixth company, and the ensign of the eighth.

Sixth draft. The sixth captain, the lieutenant of the fifth company, and the ensign of the seventh.

Seventh draft. The captain of the seventh company, the lieutenant of the eighth, and the ensign of the sixth.

Eighth draft. The captain of the eighth company, the lieutenant of the seventh, and the ensign of the fifth.

Non commissioned officers to take tour of duty with the commissioned officers.

Time they
 shall serve,
 &c.

And the field officers of battalions in the city of Philadelphia, and in each county of this state, shall be divided in like manner, and each class to be considered as a detachment from different corps, liable to serve two months and no longer, and to be relieved by the class next in numerical order, the relief to arrive at least two days before the expiration of the term of the class to be relieved; but nothing herein contained shall prevent the supreme executive council from employing or calling out part of any class or any company or companies, battalion or battalions, without respect to this rule, whenever the exigency is too sudden to allow the assembling of the scattered militia which compose the particular classes; and the service of the person so called out shall be accounted as part of their tour of duty; and the militia in actual service shall receive the same pay and rations as continental troops; their pay to commence two days before marching, and receive pay and rations at the rate of fifteen miles per day on their return home.

SECT. 31. *And whereas* the militia when called into actual service, are not entitled to any bounty, such as cloathing, at the public expence; and therefore their reward is not equal to that of the regular troops:

Pay of a
 private to
 be equal to
 a day's la-
 bour.

SECT. 32. *Be it therefore enacted by the authority afore-* said, That when the militia or any detachment thereof are called out on duty, each non commissioned officer and private shall receive such a sum as, including the continental pay, will amount to the price of common labour for the time of service given, to be drawn from the treasurer by the paymasters of the militia from time to time appointed; and the officers, whose duty it may be, are hereby required to make out separate pay rolls of the said bounty; and that all commissioned officers shall, over and above the pay established from time to time by the honorable congress, receive the same bounty which a private shall receive.

SECT. 33. *And be it further enacted by the authority* afore- said,

JOSEPH REED, Esq. President.

359

aforsaid, That at each quarter sessions of the peace of the city and in the several counties throughout the state the price of common labour, then current in the said city and counties respectively, shall be enquired into and ascertained; and the justices, or a majority of them, attending the said courts are hereby required to fix and determine what is the average price of common labour at that time by the day; which price, so determined by the said justices, shall be considered as a rate by which all fines shall be determined for neglects or omissions of militia duty during and from that time to the end of the next quarter sessions of the peace; and the said justices are hereby required to make out a certificate of the price so determined for the lieutenants of the said city and counties respectively, under their hands and seals.

1780.

*The fourth Year
of the Common-
wealth.*

Price of day
labour to be
fixed at the
quarter ses-
sions, and
become the
rule for
fines.

See chap-
ter 181.

SECT. 34. *And be it further enacted by the authority aforsaid*, That when any class or classes of the militia shall be called to perform any tour of duty, the lieutenant or sub lieutenant shall cause each and every person so called, to be notified of such call at least three days before the time of assembling the said militia, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other fit person employed for that purpose by the commanding officer of said company; and any person refusing or neglecting to perform such tour of duty shall pay for each and every day he shall so neglect or refuse, the price of one day's labour; and in case he shall be possessed of such estate as is herein after mentioned, shall pay such additional sum as by this act is further directed.

Written
notice to be
given when
the militia
are called.

Fine for not
serving.

SECT. 35. *And be it further enacted by the authority aforsaid*, That the master or mistress of any apprentice, and the father or mother of any minor, liable to serve in the militia, who shall refuse or neglect to attend as aforsaid, such minor being in the service of his father or mother, master or mistress, they shall be respectively accountable for the fine or fines so incurred by such minor or apprentice.

Fathers,
masters, &c.
to be ac-
countable
for the
fines of
minors and
appren-
tices.

SECT. 36. *And be it further enacted by the authority aforsaid*, That no mariner or seaman shall be subject to the fines and penalties of this act, for not performing militia duties, if such mariner or seaman is in actual employ by being shipped for a voyage, or absent at sea.

Mariners
excepted.

SECT. 37. *And be it further enacted by the authority aforsaid*, That the militia of this state, whilst in the actual service of the united states, shall be subject to the same rules and regulations as the federal army: *Provided*, that

Militia,
while in
the service
of the unit-
ed states, to

upon

1780.
 {
The fourth Year
of the Common-
wealth.
 {
 be subject
 to the rules
 of the army

upon any transgression or offence of a militia man, whether officer or private, against the rules and regulations of the federal army, the cause shall be tried and determined by a court martial of the militia of this state; and that it shall be in the power of the president of the supreme executive council, or in case of his absence, of the commanding officer of the militia, to mitigate, suspend or pardon, any punishment to which any militia man may be sentenced by a general court martial.

Fines, how
 to be reco-
 vered.

SECT. 38. *And be it further enacted by the authority aforesaid,* That if any delinquent shall neglect or refuse to pay the fine for an omission of performing his tour of militia duty, within five days after the appeal herein after mentioned, it shall and may be lawful for the lieutenant or any sub lieutenant to issue his warrant to the sheriff, or any constable or other fit person that he can procure, to levy the said fine, by distress and sale of the offender's goods and chattels, lands and tenements, together with seven and a half per cent. and the charges of keeping the distress, in full for his trouble for levying, selling and collecting; which said distress and sale shall be made according to the directions of the law for levying and selling goods and chattels distrained for rent; but if no such goods and chattels, lands and tenements can be found, then to seize and take the body of such offender, and commit him to the common jail or some other place of close confinement, for the space of four months, unless he sooner pays the fine; and no process shall issue to stay the execution of such warrant, unless in case of the seizure of real estates.

Proviso.

SECT. 39. *Provided always,* That if any person shall think himself aggrieved in the seizure of his lands and tenements, he may enter an appeal before the justices to the next court of common pleas for said county, and on the party's giving sufficient security, within six days next after any lands and tenements shall be seized or distrained as aforesaid, to prosecute such appeal with effect, the justices shall receive the same and stay further process; and the said justices shall return every such appeal on the first day of the next term, and the court shall direct a trial by a jury of the county as in cases of debt, whose verdict shall be final and conclusive; and except in extraordinary cases, of which the court shall judge, all such appeals shall be tried at the term to which such returns shall be made:

Proviso.

SECT. 40. *Provided also,* That in case real estate be sold as aforesaid, such sale shall be made by the sheriff of
 the

JOSEPH REED, Esq. President.

361

the county, who shall make a sufficient deed for the same, and put the purchaser into possession thereof.

1780.

*The fourth Year
of the Common-
wealth.*

SECT. 41. *And be it further enacted by the authority aforesaid,* That no militia man shall withdraw himself from the company to which he belongs, under the penalty of the value of twenty days labour, to be sued for and recovered by the commanding officer of the company from which he shall so withdraw himself, before any justice of the peace, by action of debt: Provided nevertheless, that persons removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he hath served his tour of duty or not, which certificate the said militia man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, under penalty of the value of thirty days labour, to be recovered and applied as aforesaid; and the captain or commanding officer is hereby required to inroll him in the class specified in the said certificate.

No militia
man to
withdraw
himself
from his
company.

SECT. 42. *And be it enacted by the authority aforesaid,* That in all cases of doubt respecting the age of any person inrolled or intended to be inrolled in the militia, the party questioned shall prove his age, to the satisfaction of the officers of the company within the bounds of which he may reside, or a majority of them.

Persons to
prove their
age.

SECT. 43. *And whereas* it is just and reasonable that those who have considerable property, should pay for the protection of that property, when they do not give their service in facing danger in the field, or bearing any of the necessary fatigues attending a military life; and to compel all persons to give their personal service or some equivalent therefor, in some proportion to such property:

SECT. 44. *Be it therefore enacted by the authority aforesaid,* That all and every person and persons who are in and by this act required to perform a tour of duty, and have an estate, shall pay, for neglecting to perform the said tour of duty, in addition to the fine of the price of one day's labour as aforesaid, the sum of fifteen shillings in every hundred pounds on all his rateable property and occupation, in the manner directed to be ascertained by an act of assembly, passed the third day of April, one thousand seven hundred and seventy nine, intituled, "*An Act to raise the supplies for the year one thousand seven hundred and seventy nine*;" and as may be directed to be taken by every yearly or other state tax in future.

Persons
having es-
tates, shall
pay 15s. in
each 100l.
over and
above their
other fine.

1780.

*The fourth Year
of the Common-
wealth.*

SECT. 45. And in order that the lieutenant of each county may have the amount of the whole estate of each person residing in said county, although the said estate or estates may be situate in some other county or counties, that the said lieutenant may be able where the case requires it, to levy on the interest for the whole, wherefore lying within this state:

How to as-
certain such
estate.

SECT. 46. *Be it further enacted by the authority aforesaid,* That the assessors of each and every county, finding any kind of taxable estate within said county belonging to persons resident in some other county within the state, shall and are hereby required to make out a list of the amount of the valuation of such estate or estates, placing the same opposite to the name of such proprietor, and once in every year send such lists to the lieutenant of the county where the owner of such estate may reside.

Pay of the
lieutenants
and sub
lieutenants.

SECT. 47. *And be it further enacted by the authority aforesaid,* That the lieutenant of the city of Philadelphia and of the several counties of this state shall have and receive the value of one and a half bushels of wheat per day, and the sub lieutenants for the said city and counties shall have and receive the value of one and a quarter bushels of wheat per day, each, as the same shall be declared from time to time by the general assembly, for their trouble, and for every day in which they shall be employed, in doing and performing the respective duties required by this act; which said sum or sums shall be respectively paid unto them out of the fines incurred by this act.

Substitutes
may be
hired.

SECT. 48. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for any person, called to do a tour of militia duty, to find a sufficient substitute, such substitute having been previously classed at least six months in the company or battalion to which the person belongs who hires such substitute: *Provided always,* That persons serving by substitute as aforesaid, if said substitute shall be called in his own turn into actual service, before the term expires which he was to serve for his employer, that then the person procuring such substitute shall march in his said substitute's turn, or be liable to pay his fine for neglect, which fine is to be recovered as other fines for neglect of serving are by this act directed to be recovered; and that sons who are not subject to the militia law may be admitted as substitutes for their fathers; and that each substitute be approved of by the lieutenant or sub lieutenant.

Mode of
determin-
ing appeals.

SECT. 49. *And be it further enacted by the authority aforesaid,* That the lieutenant or one of the sub lieutenants shall,

JOSEPH REED, Esq. President.

363

shall, within ten and not less than five days after the marching of any part of the militia, call to his assistance two freeholders, one of whom shall be a justice of the peace, to sit, at the most convenient place for the inhabitants of their respective districts, (notice having been given of such place in the written or printed summons of every militia man) and shall there hear and determine all appeals that may be made by the persons thinking themselves aggrieved by any thing done in pursuance of this Act; and they are hereby authorized and required to grant such relief to such appellant as to them shall appear just and reasonable, in consideration of such inability of body as in the opinion of the court renders him incapable of performing military duty; and each of the said freeholders, before they shall sit on the said appeal, shall take the following oath or affirmation, viz. "That he will hear and impartially determine on the cases of appeal that may be laid before him, agreeable to law, and according to the best of his knowledge;" which oath or affirmation the said justice, lieutenant or sub lieutenant, is hereby empowered and required to administer: And the said justice and freeholder shall have and receive from the said lieutenant the value of one bushel of wheat each for every day they sit on the said appeals; and the said lieutenant and justice of the peace shall each keep a separate record of the proceedings of such court of appeals.

1780.

The fourth Year
of the Common-
wealth.

SECT. 50. *And be it further enacted by the authority aforesaid,* That if any person or persons shall knowingly sell, buy, take or exchange, conceal, or otherwise receive any arms, accoutrements, colours or drums, belonging to this state, or the united states, on any account or pretence whatsoever, the person so offending, being convicted thereof, before one or more justice or justices of the peace of the city or county where such offence shall be committed, shall forfeit and pay for every such offence treble the value of such arms or accoutrements, to be ascertained by the said justice or justices, and levied by distress and sale of the offender's goods and chattels by the justice or justices before whom such offender shall be convicted, returning the overplus, if any, on demand, to such offender; and for want of such distress, shall commit such offender to the common jail of the county, there to remain without bail or mainprize, for any term not exceeding three months, unless such money shall be sooner paid; and in every such case the proof of the property shall be made by the possessor of such arms and accoutrements.

Penalty for
buying and
selling
arms, &c.

SECT.

1780.

*The fourth Year
of the Common-
wealth.*

Deferters
from the e-
nemy not to
be enrolled.

No civil
procefs to
be served
while going
or return-
ing from re-
view.

Monies
arising, how
appropri-
ated.

Support for
wounded
militiamen.

SECT. 51. *And be it further enacted by the authority
aforesaid,* That no person not being a subject of this state,
or any of the united states, who already has deserted or
shall hereafter desert from the enemy in the course of the
present war, shall be enrolled in any company of militia
of this state, during the present contest, or be subject to
any fine or penalty for not serving as by this act is re-
quired of others.

SECT. 52. *And be it further enacted by the authority
aforesaid,* That no civil procefs shall be served on any
commissioned, non commissioned officer or private at any
regimental review, or training of any company, or while
going to or returning from the place of such review or
training.

SECT. 53. *And be it further enacted by the authority
aforesaid,* That all monies passing into the treasury by vir-
tue of the directions of this act, shall be appropriated as
a fund for the benefit and relief of such officers and pri-
vates of the militia of this state, as are or shall be wound-
ed and disabled in service, and of the widows and chil-
dren of such as have or shall fall in battle or otherwise
lose their lives in the service of the state, and shall not be
considered as a revenue for any other purpose than that of
supporting the necessary officers for carrying this law into
effect, equipping and furnishing the militia with every
necessary apparatus for the defence and security of the
state, the surplus, if any to be appropriated in such man-
ner and to such uses as the assembly shall from time to
time direct and appoint.

SECT. 54. *And be it further enacted by the authority
aforesaid,* That if any commissioned officer, non commis-
sioned officer or private militia man of this state, who has
lost or hereafter may lose a limb in any engagement in the
service of this state, or in the service of the united states
of America, or be so disabled as to render him incapable
of getting a livelihood, he shall receive during life, or
the continuance of such disability, a pension, adequate to
the necessity of such disabled officer or private militia
man, by the judgment of the orphans court of the county
where such disabled officer or private militia man shall
dwell or reside. And every officer or private disabled as
aforesaid, shall before he be legally entitled to the pen-
sion above mentioned, produce a certificate upon oath,
from the commanding officer who was in the same en-
gagement in which he was wounded, or from the com-
manding officer next in command, or the surgeon that at-
tended him; and upon such disabled officer, non com-
missioned

J O S E P H R E E D, Esq. President.

365

missioned officer or private militia man's producing such certificate as aforesaid to the orphans court of the county where such disabled officer, non commissioned officer or private militia man shall dwell or reside, the said court is hereby enjoined and required, if they are satisfied of the truth hereof, to give every such officer or private an order on the lieutenant of the said city or county, for such sums of money from time to time as to them shall appear just and necessary; provided such sums of money do not exceed the half pay and rations of such officer or private: And the said lieutenant is hereby enjoined and required to accept and pay the said order, to such officer or private: And the said lieutenant shall draw on the state treasurer, as often as he shall have occasion, for such sum or sums of money as he shall make appear to the president and council to be necessary for carrying this proviso into execution.

1780.

*The fourth Year
of the Common-
wealth.*

SECT. 55. *And be it further enacted by the authority aforesaid,* That if any officer, non commissioned officer or private militia man, residing in this state, having a family, has been killed, shall be killed, or shall die of his wounds received in the service of this or the united states, a certificate from the commanding or other officer next in rank, who was in the same engagement in which he was killed or wounded and died of his wounds, being produced to the orphans court, and also a certificate from the overseers of the poor, and two other reputable freeholders of the township, borough, ward or district where the family of such deceased officer or private militia man shall dwell or reside at that time, setting forth the particular circumstances of such family, the age or ages of the child or children, and the necessity of granting them some support; the said orphans court, when possessed of the certificates aforesaid, is hereby authorized to give orders upon the lieutenant of the city or county for such sum of money as they may think just and necessary for the support of such family from time to time.

Families of
militia men
killed in
service, how
supported.

SECT. 56. *Provided always,* That the sum of money aforesaid does not exceed the half pay and rations that such officer, non commissioned officer or private was entitled to at the time of his death.

Proviso.

SECT. 57. *And be it further enacted by the authority aforesaid,* That if any field or other commissioned officer, at any regimental review, or on any other occasion, when the battalion or company to which he may belong, or in which he holds a command, is paraded in arms, shall appear, misbehave, or demean himself in an un-officer like manner

Penalty on
officers mis-
behaving
while on
parade.

1780.
 {
*The fourth Year
 of the Common-
 wealth.*
 }

manner, he shall for such offence be cashiered or punished by fine, at the discretion of a general court martial, as the case may require, in any sum not exceeding the price of six days labour; and if any non commissioned officer or private shall, on any occasion of parading the company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be found drunk, or shall disobey orders, or use any reproachful or abusive language to his officers or any of them; or shall quarrel himself, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined in any sum not exceeding the price of ten day's labour, nor less than one day's labour.

Penalty on
 officers ne-
 glecting to
 issue orders
 for assem-
 bling in bat-
 talion or
 company,

SECT. 58. *And be it further enacted by the authority aforesaid,* That if the lieutenant colonel or commanding officer of any battalion shall neglect or refuse to give orders for assembling his battalion at the times appointed by this law, or at the direction of the lieutenant or sub lieutenant of the city or any county, when the said lieutenant or sub lieutenant is thereto commanded by the president or vice president in council, or in case of an invasion of the city or county to which such battalion belongs, he shall be cashiered and punished by fine at the discretion of a general court martial; and if a commissioned officer of any company shall on any occasion neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the lieutenant colonel or commanding officer of the battalion to which such company belongs, he shall be cashiered and punished by fine at the discretion of a regimental court martial; and a non commissioned officer offending in such case shall be fined in any sum not exceeding the price of ten days labour.

and on non-
 commission-
 ed officers.

Penalty on
 captains for
 neglecting
 to make out
 a list of per-
 sons noticed
 to a tour of
 duty.

SECT. 59. *And be it further enacted by the authority aforesaid,* That if any captain or commanding officer of a company shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the lieutenant colonel or commanding officer of the battalion to which such company may belong, for such neglect or refusal he shall be cashiered or fined, at the discretion of a regimental court martial

Rules and
 regulations.

SECT. 60. *And be it further enacted by the authority aforesaid,* That the following rules and regulations shall be those by which the militia shall be governed.

1st. Every general court martial shall consist of thirteen members, all of whom shall be commissioned officers,
 and

and of such rank as the case may require, and these thirteen shall choose a president, out of their number who shall be a field officer.

2d. Every regimental court martial shall be composed of five members, all commissioned officers, who are to choose one of their members a president, not under the rank of a captain.

3d. In any court martial, not less than two thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

4th. The president of each and every court martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation, that the evidence they shall give is the truth, the whole truth, and nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to the other members, and the next in rank is required to administer to him, that they will give judgment with impartiality.

5th. All members of any militia, called as witnesses in any case before a court martial, who shall refuse to attend and give evidence, shall be censured or fined at the discretion of the court.

6th. No officer or private man being charged with transgressing these rules shall be suffered to do duty in the battalion, company or troop to which he belongs, until he has had his trial by a court martial, and every person so charged shall be tried as soon as a court martial can be conveniently assembled.

7th. If any officer or private man shall think himself injured by his lieutenant colonel or the commanding officer of the battalion, and shall upon due application made to him, be refused redress, he may complain to the lieutenant of the county, who shall summon a general court martial, that justice may be done.

8th. If any inferior officer or private man shall think himself injured by his captain, or other superior officer in the battalion, troop or company to which he belongs, he may complain to the commanding officer of the battalion, who shall summon a regimental court martial for the doing justice, according to the nature of the case.

9th. No penalty shall be inflicted at the discretion of a court martial other than degrading, cashiering or fining.

10th. The commanding officer of the militia for the time being, shall have full power of pardoning or mitigating

1780.

The fourth Year
of the Common-
wealth.

1780.
*The fourth Year
 of the Common-
 wealth.*

ing any censures or penalties ordered to be inflicted on any private or non commissioned officer for the breach of any of these articles by a general court martial; and every offender, convicted as aforesaid by any regimental court martial, may be pardoned, or have the penalty mitigated by the lieutenant colonel or commanding officer of the battalion, excepting only where such censures or penalties are directed as satisfaction for injuries received by one officer or private man from another; but in case of officers, such sentence to be approved by the commander in chief or the nearest general officer of the militia, who are respectively empowered to pardon or mitigate such sentence or disapprove the same.

11th, The militia on the days of exercise may be detained under arms on duty in the field any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

12th. No company or battalion shall meet at a tavern on any of the days of exercise, nor shall march to any tavern before they are discharged; and any person who shall bring any kind of spiritous liquor to such place of training shall forfeit such liquors so brought for the use of the poor belonging to the township where such offender lives.

Fines, how
 to be paid
 in.

13th. All fines that shall be incurred by any breach of these rules shall be paid into the hands of the clerk of the company to which the offenders belong, but if a field officer, to the clerk of that company whose captain has the first rank in the battalion, within three weeks after they become due; but in case of neglect or refusal to pay any of the said fines, then in such case, upon application made by the clerk to whom such fine or fines ought to have been paid, it shall and may be lawful for any one justice of the peace of the county (if the fines do not exceed fifty pounds, or two justices, if above that sum) by warrant under his or their hands and seals, to levy such fine or fines respectively on the offender's goods and chattels, and otherwise proceed in recovering the same as is by law directed. And when recovered, the said justice or justices are required to pay such fines into the hands of the clerk who applied for recovery and shall be applied as other fines before directed.

How service
 is to be paid
 for where
 no special
 recompence
 is provided.

SECT. 61. *And be it further enacted by the authority aforesaid, That in any case wherein any person is by this act called to do or perform any thing in execution thereof, or otherwise, and no special recompence is herein provided for*

JOSEPH REED, Esq. President.

369

for such service, such person shall be satisfied for the same, at the discretion of the lieutenant, taking to his assistance two sub lieutenants of the city or county respectively.

1780.

The fourth Year
of the Common-
wealth.

SECT. 62. *And be it further enacted by the authority aforesaid,* That in any case wherein the person, who shall be authorised to collect any fine due by virtue of this act, shall need assistance, in levying the same, such collector, on application to any captain, or inferior officer of the militia of the place where such fine shall be due, shall be assisted therein by a sufficient party of militia of the neighbourhood, ordered on such duty by such captain or other officer; and if such captain or other officer, or any of the party by such captain or other officer ordered on such duty, refuse or neglect to perform the said duty, such captain or other officer shall forfeit and pay the sum of fifty pounds; and if any non commissioned officer or private be delinquent therein, he shall forfeit and pay the sum of twenty five pounds, to be recovered, with costs of suit, as demands for fifty pounds are by law recoverable; to be applied as other fines levied by virtue of this act.

Militia to
assist in col-
lecting fines
where ne-
cessary.

Penalty for
neglect or
refusal.

SECT. 63. *And be it further enacted by the authority aforesaid,* That in case any militia man shall desert when he is out on a tour of duty, the commanding officer of the battalion or detachment from which he deserts, shall as soon as possible, give notice thereof to the lieutenant of the city or county, or sub lieutenant of the district from which he came, who, if he does not see proper to send him back, shall subject him to the payment of such fine as he would have paid if he had not gone out on such tour.

Deserters,
how pro-
ceeded with.

SECT. 64. *And be it further enacted by the authority aforesaid,* That if any suit or suits, shall be brought or commenced against any person or persons, for any thing done in pursuance of this act, the action shall be laid in the county where the causes of such action did arise, and not elsewhere. And the defendant or defendants in such action or actions to be brought may plead the general issue, and give this act and the special matter in evidence; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be non suited or discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same, as any de-

Suits shall
be brought
in the coun-
ty where
the offence
shall be
committed.
Defendants
may plead
the general
issue, and
give this act
in evidence.

1780.

*The fourth Year
of the Common-
wealth.*

*Manner in
which fines
shall be re-
covered.*

pendant or defendants had or have in other cases to recover costs by law.

SECT. 65. *And be it further enacted by the authority aforesaid,* That all and every the fines and forfeitures, by this act made payable, and the mode of recovery not herein before particularly pointed out, shall be recovered by the lieutenant of each county, and of the city of Philadelphia, by summons or warrant and execution from under the hand and seal of a justice of the peace, in the neighbourhood where the person charged resides, directed to any constable of the city or county, requiring him to levy the same on the goods and chattels of the delinquent, and the same cause to be appraised by two freeholders, and after being publicly advertised seven days, make sale thereof, and after payment of the fine or the forfeiture to the lieutenant, together with costs and charges, pay the overplus, if any, to the owner; and if goods and chattels sufficient to discharge the same cannot be found, that then the justice, granting such precept, shall certify the proceedings had thereon, to the prothonotary of the county court of common pleas, who, is thereupon required, to issue a fieri facias, directed to the sheriff of said county, for the levying the fines and forfeitures aforesaid, together with the costs on the lands or tenements of such delinquent.

*Proviso for
appeal.*

SECT. 66. *Provided always, and be it enacted by the authority aforesaid,* That if any person or persons shall think him or themselves aggrieved by the judgment of the justice aforesaid, in any suit of fifty pounds or upwards, he or they may appeal before the justice aforesaid, and on the party's giving security, within six days next after any such judgment, to prosecute such appeal, in the court of common pleas of the county with effect, the justice shall receive the same, and stay further process, and the said justice shall return every such appeal on the first day of the next term, and the court shall direct a trial by jury, as in other cases of debt, whose verdict shall be final and conclusive, and all such appeals shall be tried at the term, to which such returns shall be made; any law, custom or usage, to the contrary notwithstanding.

*Repeal of
sundry for-
mer acts.*

SECT. 67. *And be it further enacted and declared,* That the act entitled, "*An Act to regulate the militia of the commonwealth of Pennsylvania,*" passed on the seventeenth day of March, anno domini one thousand seven hundred and seventy seven; also the supplement to the said act passed June the nineteenth, anno domini one thousand seven hundred and seventy seven; also a further supplement

JOSEPH REED, Esq. President.

371

supplement to the said act, passed on the thirteenth day of December, anno domini, one thousand seven hundred and seventy seven; also a further supplement to the said act, passed on the fifth day of April, anno domini, one thousand seven hundred and seventy nine; also such parts of an act intituled, *An Act to impower the supreme executive council, and justices of the supreme court, to apprehend suspected persons, and to increase the fine to which persons are liable, for neglecting to perform their tour of militia duty;* as relates to the fining the militia for not performing a tour of duty, and the pay of the lieutenants, are hereby repealed and made void.

1780.

The fourth Year
of the Common-
wealth.

SECT. 68. *Provided always,* That nothing in this act contained shall be deemed to repeal, alter or dispense with the powers, authorities or duties of the present lieutenants and sub lieutenants of the city and counties aforesaid, or of any other officer or person under the militia laws that have been in force in this state immediately before the passing of this act, until their respective offices are supplied and filled by new appointments in virtue of this act; which said present lieutenants and sub lieutenants, or other proper officers, are hereby authorised, required and enjoined to collect or cause to be collected all such fines and forfeitures as have been or shall be incurred during the continuance of their respective commissions, and pay in the same agreeable to this law, or the late laws aforesaid, on or before the first day of July next. But in case the president or vice president and council shall approve of the discontinuing to act or resignation of the said present lieutenants and sub lieutenants, or any of them, and not otherwise, it shall be lawful for every such officer, and he is hereby required, to deliver to his successor in office an account, on oath, of all monies uncollected and outstanding on account of fines and forfeitures aforesaid, who is in such case impowered and required to collect the same.

Proviso.

JOHN BAYARD, SPEAKER.

*Enacted into a law at Philadelphia, on Monday, the
20th day of March, A. D. 1780.*

THOMAS PAINE, clerk of the general assembly.

CHAP-